"DIVERSELINE"

Health Policy, Legal, and Ethical Issues in Healthcare

by

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First, the reading assignments provided us with a good background on the evolving role of government in the health services. These readings enabled us to better understand the transformation of the health system through the years and how influential the government was in the numerous and various developments.

Politics and policies shaping the past health care system had brought the government into a major crisis; the rise of the costs to public treasuries. It is clear that for the past two decades, the health care spending in the United States outpaced the growth of the rest of the economy. The consequences are important for the workers who face depressed wages, the businesses who face a growing share of profits to health care, for the families who experience a rising out of pocket costs and rising taxes to pay for public prog   ams and moreover, for the government who now has to increase its share of expenditures for health care.

Many governmental efforts were oriented toward reducing the cost of heath care but unfortunately never really achieved the result required or desired. There is still a lot of pressure on the health care industry to limit the rise of health care expenditures. Another attempt to achieve a reduction in the rise of the health care costs is by the use of the Health Insurance Portability and Accountability Act (HIPAA).

During our discussion, we defined what the HIPAA is and described what is meant by "Administrative Simplification." We also elaborated on the privacy and confidentiality provisions of the HIPAA and tried to explain their impact upon healthcare providers, administrators, and consumers. Finally, we talked about the challenges we foresee these provisions imposing in terms of managing the health systems.

It is important to understand that lot of good intention was driving the elaboration of the HIPAA. Initially, five major objectives were defined. First, it was supposed to improve the portability of health insurance coverage in the group and individual markets. Second, it would ideally limit healthcare fraud and abuse. Third, it was to promote the use of medical savings accounts. Fourth, it was meant to improve access to long-term care services and coverage. Fifth, it was suppose to simplify the administration of health insurance.

As one can imagine, such an honorable project doesn't come along without encountering many problems. Although it was expected that the easiest part would be the simplification of the administration of health insurance, it appears that it was much more complicated than anticipated. As stated in the introduction, we will mainly focus on that subject for now.

Reducing the burden of the healthcare industry by reducing its administrative cost was a great idea. The incredible amount of steps needed to initiate, proceed, and complete any insurance reclamation consists of a multitude of paper formularies, time spent in human resources and ultimately, a lot of money to be able to run all that administrative business.

Three major steps were put forward to achieve the administrative simplification:

   The establishment of standardized code sets is the first one, for financial and clinical electronic data interchange (EDI) transactions to enable easier information transmission. It was estimated that the amount of money that might eventually be saved by using an electronic system instead of a paper based system could be in the range from 9 to 42 billion in the first six years.

   Our team discussed that for providers it can be very interesting to have access to the entire patient's records anytime, anywhere. Not only they will spend less time accessing specialist's reports or lab analysis, but also depending on their learning curve, it will eventually impact the time required to fill out medical records. On the patients' side however, we had an interesting discussion about the impact regarding the patients' access to their own record. It might not be easy for patients to request access to their own electronic medical records. It is actually sometimes exhausting to have access and consult your own paper medical records so, for people who are not familiar with computers, it might be a substantial barrier for them if they want to request access to their electronic records. Even if you're not legally the owner of your medical records, you're entitled to request access to it.

   For the administrators, the impact is supposed to be quite important as the HIPAA aimed to reduce their administrative overhead. They should be able to be more time-efficient by the fact that they will have much less manual, paper-based tasks. However, our team pointed out that on the other end, some of the administrators might be stressed about losing their jobs as it was previously seen in some enterprises who upgraded with major Information Technology installations. But, this situation is not likely to happen as we are still early in the process and, not only will we need their help for a long time still, but also, it is very likely that other administrative positions will be created because of the complexity of the process. The implementation of standardized Transaction & Code Sets could be very interesting for the patients as well. Faster referrals to specialists, better transmission of their reports, good follow up by multiple providers leading to a better quality of care, and a quicker payment of claims. Unfortunately, eventually there might be negative impact for the patients. The infrastructure's implementation will be exhaustive. To be able to access the system at so many different locations necessitates a huge amount computers, database, and more importantly IM/IT support. All of this costs a lot of money and it might be hard for the consumers (the patients) to realize how beneficial the electronic system is for them in concrete terms. The tax payers will eventually have to pay for that and, hopefully somebody at one point will be able to demonstrate the real cost-effectiveness of the HIPAA.

   To achieve the administrative simplification, the second step is to mandate the adoption of security standards to preserve the confidentiality of patient records. Many comments were made during our discussion in regards to patient privacy. As the third step is also related to the privacy concerns, we will describe it now. The third step is the creation of a unique identifiers for the four constituents in healthcare i.e. payers, providers, patients

and employers. This last steps aims to simplify the transmission and the record keeping of clinical data during multiple episodes of treatment by multiple providers.

Since the HIPAA was signed into law in August 1996, the act required the Secretary of the Health and Human Services (HHS) to issue a regulation in order to protect the privacy of certain health information. This regulation is the "Standards for Electronic Transactions" and established the data content, the format, and the code sets for various administrative electronic transactions. Since then, the HIPAA Privacy Rule that applies to health plans, health care clearinghouses, and certain health care providers has been revised many times and took almost three years to be finalized.

It is not surprising to see that the process of developing such policies has taken so long. Protecting the confidentiality and privacy of medical information is a complex issue when we talk about electronic records accessed by so many different organizations. Some members of our team reported having experience with the writing of regulation under various strong and influent directions. Dealing with too many people makes it very hard to comply with any given agenda. Frequent revisions and changes always delay the implementation phases.

Our team was very concerned about how an electronic system could really protect the patients' privacy. How can you assure the patient population that their medical records will only be seen by the people who really need to see it? Physicians, pharmacists, dental assistants, administrators, or lab technicians have different entitlement to different parts of the health record. How can you regulate it? We have the feeling that people may be afraid to seek medical treatment for some stigmatized conditions.

It seems that the actual solution is placing a lot of emphasis on the responsibility of the providers to obtain more regulated and better informed consents. In fact, as they are, the HIPAA privacy protection rules would require obtaining a patient's consent before sharing health information for treatment, payment, audits, and other business-related purposes. However, patients would not have to give consent each time information is shared and it is sometimes very hard to balance the patient rights and reasonable healthcare delivery when establishing these rules. The possible impact of privacy and confidentiality on providers is that they will have to be excessively careful in following the regulations about informed consent because this delicate issue might cause them to be sued more often if they do not comply. Also, the providers as well as the administrators will have to be substantially more careful about the protection and security of any documents they transmit to any business associates. They will have to comply with strict security rules and this might not be as simple as they would like.

Another big challenge with record exchanges by electronic emission is that you need to make sure that there is no way that the user can modify the original notes entered into the records whether they are written or digital imagery. It might be a complex issue to know if the documents conserved or sent electronically are the original ones or modified documents. Another impact of the privacy and confidentiality provisions on the providers and the administrators is the two-year mandatory deadline for compliance with the Health

Insurance Portability and Accountability Act's transaction standards. In order to comply, those businesses will have to face the growing number of IT products available on the market and expressly developed to help them in the implementation and integration phases. These IT products are designed to support the data and transaction standards mandated by HIPAA and will be expensive to buy. Not only will the implementation of the HIPAA Privacy regulation require a great deal of time, energy, and resources to reach compliance, but it will also require new expenses in IT products.

   To comply with all the appropriate administrative, technical, and physical safeguards to protect the privacy, it might be quit a burden for administrators and providers. Not only will they have to be more careful then ever on their day to day business in order to not violate the rules of Protected Health Information but also, they will have to set up internal guidelines to insure their employees will apply adequately the right electronic, written, and oral transmission of information. On the other end, one positive impact of the HIPAA Privacy Rule is that it will entitle administrators and providers to use limited patient information without authorization for some limited marketing activities. For example, patients may receive information on new services or pharmaceutical products. This might be an excellent way to encourage the recipients to use the product or service but it might be more to the advantage of the providers and administrators then to advantage of the patients!

   As a conclusion we can say that along our discussion we pointed out that unfortunately the cost of providing uniform electronic patient information and greater privacy rules for patient information will eventually be passed along to the healthcare recipients. HIPAA present a wide range of compliance problems and challenges that will be unique to every hospitals, medical practice, or supplier of medical goods. All companies with access to patient information are required to comply with HIPAA but the law may have a disproportionate effect on employers of small businesses. The balance between the advantages and disadvantages of the system are still not clear and only the post implementation period will be able to demonstrate the real cost-effectiveness of it.